



CITY OF ARCHDALE

CITY COUNCIL

MEETING DATE: Tuesday March 22, 2022

SUBJECT: Public Hearing: Adoption of Minimum Standards for Nonresidential Buildings and Structures.

RECOMMENDATIONS OR COMMENTS: The following is a potential code of minimum standards for nonresidential buildings and structures. The City of Archdale adopted a Minimum Housing Ordinance for residential structures in 2010. Based on recent observations and complaints received by staff about several dilapidated commercial structures across the City, it was determined that the City would need to adopt standards to abate issues with nonresidential structures.

Planning Board, at their March meeting, voted unanimously in favor of the adoption of the standards with the following corrections:

1. On Page 5, under Subsection 1, Paragraph a, the word “writing” should be changed to “written” in this sentence: *The order shall provide **writing** findings of fact in support of the Inspector's determination.*
2. On Page 6, under Section 4, Subsection a, Paragraph 1, there is a reference to the “office of the register of deeds in the county” In other places in the document, it is sometimes referred to as “Randolph and/or Guilford County Register of Deeds.” It was requested that all references to the Register of Deeds office be made consistent.
3. On Page 8, under Section 6, Paragraph B, there was a question of whether this clause was legal when placing a lien. Staff said they would confer with the city manager and city attorney to make sure it was legal. ***Upon further research, this was determined to be a legal clause per the NC General Statutes.***

SUMMARY OF INFORMATION: Proposed Minimum Standards for Nonresidential Buildings and Structures.

ATTACHMENTS: ☒ YES ☐ NO



MINIMUM STANDARDS FOR NONRESIDENTIAL BUILDINGS AND STRUCTURES

Section 1: JURISDICTION AND AUTHORITY

- (A) Authority. Pursuant to NCGS 160D-1129 the City Council hereby adopts these standards for nonresidential buildings and structures to ensure that said buildings and structures meet minimum maintenance, sanitation, and safety standards. These standards shall apply in addition to the requirements of the North Carolina State Building Code and any other applicable regulations.
- (B) Jurisdiction. The provisions of this section shall apply within the zoning jurisdiction of the City of Archdale.
- (C) Inspector Appointed. The City of Archdale Planning Director or their designee is the public official hereby authorized to implement and enforce the provisions this ordinance, “Minimum Standards for Nonresidential Buildings and Structures”. The public official handling enforcement of this Ordinance shall be referred to herein as the “Inspector”.

Section 2: MINIMUM STANDARDS

- (A) Compliance with the North Carolina State Building Code. Every nonresidential building and structure shall comply with applicable provisions of the North Carolina State Building Code, especially those provisions that pertain to the prevention of conditions that are dangerous and injurious to the public health, safety, and welfare.
- (B) Structural Condition.
 - (1) Walls or partitions or supporting members, sills, joists, rafters, or other structural members shall not list, lean, or buckle, and shall not be rotted, deteriorated, or damaged, and shall not have holes or cracks which might admit rodents.
 - (2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.
 - (3) Foundations, foundation walls, piers, or other foundation supports shall not be deteriorated or damaged.

- (4) Every outside and inside stair, porch, landing, loading dock, and any other appurtenance shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon. All such components shall be kept in sound condition and good repair.
- (5) The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained to be weather tight and watertight.
- (6) There shall be no chimneys or parts thereof which are defective, deteriorated, or in danger of falling, or in a condition or location as to constitute a fire hazard.
- (7) There shall be no use of the ground for floors, or wood floors directly on the ground.

(C) Plumbing system.

- (1) Each nonresidential building or structure shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system, if such connections are required by the North Carolina State Building Code.
- (2) Each nonresidential building or structure shall contain at least the minimum number of toilets and other sanitary facilities required by the North Carolina State Building Code.
- (3) All water shall be supplied through an approved pipe distribution system connected to a potable water supply.
- (4) All plumbing fixtures shall meet the standards of the North Carolina State Building Code and shall be maintained in a state of good repair and in good working order.

(D) Heating and Electrical System.

- (1) The heating and electrical systems of nonresidential buildings and structures shall comply with the North Carolina State Building Code.
- (2) Every public hall and stairway in every nonresidential building or structure shall be always adequately lighted by electric lights when natural daylight is not sufficient.

(E) Safe and Sanitary Maintenance.

- (1) Every foundation wall, exterior wall, and exterior roof shall be substantially weather tight and rodent proof and shall be kept in sound condition and good repair. All such components shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
- (2) Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.
- (3) Every floor, interior wall, and ceiling shall be substantially rodent proof, shall be kept in sound condition and good repair and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.
- (4) Interior walls and ceilings of all finished interior spaces shall be finished of suitable materials, which will, by use of reasonable commercial methods, promote sanitation and cleanliness.

- (5) Every window, exterior door, basement or cellar door, and hatchway shall be substantially weather tight, watertight, and rodent proof, and shall be kept in sound working condition and good repair.
- (6) Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained to be reasonably impervious to water and to permit the floor to be easily kept in a clean and sanitary condition.
- (7) Every supplied facility, piece of equipment, or utility which is required under this section, or the North Carolina State Building Code shall be so constructed or installed that it will function safely and effectively. All such components shall be maintained in satisfactory working condition.
- (8) Every yard shall be properly graded to obtain thorough drainage and to prevent the accumulation of stagnant water.
- (9) Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.
- (10) Every nonresidential building and structure shall be provided with adequate means of egress as required by the North Carolina State Building Code.

(F) Control of Insects, Rodents, and Infestations.

- (1) Screens. Every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall be supplied with screens installed.
- (2) Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or other approved device as will effectively prevent their entrance.
- (3) Infestation.
 - a) Every occupant shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises. Additionally, every occupant of a nonresidential building or structure containing more than one unit shall be responsible for the extermination whenever their unit is the only one infested.
 - b) Whenever infestation is caused by failure of the owner to maintain a nonresidential building or structure in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner.
 - c) Whenever infestation exists in two or more nonresidential units or in the shared or public parts of any nonresidential building or structure containing two or more units, extermination shall be the responsibility of the owner.

(G) Rubbish and garbage storage and disposal. Every nonresidential building or structure shall store rubbish and garbage as required by City ordinances, and the owner or occupant of the building or structure shall be responsible for the removal of rubbish and garbage.

(H) Responsibilities of Owners and Occupants.

- (1) Public areas. Every owner of a nonresidential building or structure with two or more units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the building or structure and premises thereof.
- (2) Cleanliness. Every occupant of a nonresidential building or structure shall keep in a clean and sanitary condition that part of the building or structure and premises thereof which they occupy and control.

Section 3: **INVESTIGATION, HEARING, AND ORDER**

(A) Investigation. Whenever it appears to the Inspector that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by this Ordinance, the Inspector shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made with the permission of the owner, owner's agent, a tenant, or other person legally in possession of the premises or pursuant to a duly issued administrative search warrant issued in accordance with NCGS 15-27.2.

(B) Complaint. If the preliminary investigation discloses evidence of a violation of the minimum standards, the Inspector shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall contain the following:

- (1) The charges.
- (2) A notice that a hearing will be held before the Inspector (or their designated agent) at a place within the county scheduled not less than ten (10) days nor more than thirty (30) days after the serving of the complaint.
- (3) That the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint.
- (4) That the rules of evidence prevailing in courts of law or equity shall not be controlling in the hearing before the Inspector (or their designated agent).
- (5) For this Ordinance, "parties in interest" shall be defined as all individuals, associations, and corporations who have interests of record in a nonresidential building or structure and any who are in possession thereof.

(C) Order.

- (1) If, after notice and hearing, the Inspector determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards established by this Ordinance, the Inspector shall issue and cause to be served upon the owner an order that states the following:

- a) The order shall provide written findings of fact in support of the Inspector's determination.
- b) The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations of this subsection.
- c) The order shall state that any person aggrieved by the order may appeal the decision to the Board of Adjustment within thirty (30) days from the rendering of the decision or service of the order.

(2) Limitations on Orders.

- a) An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by this Ordinance or to vacate and close the nonresidential building or structure for any use.
- b) An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, is listed in the National Register of Historic Places, or is located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the City Council determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this Ordinance.
- c) An order may not require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.
- d) For this Ordinance, vacant manufacturing facility shall be defined as any building or structure previously used for the lawful production or manufacturing of goods, which has not been use for that purpose for at least one year and has not been converted to another use.
- e) For this Ordinance, vacant industrial warehouse shall be defined as any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

Section 4: **ACTION BY THE CITY COUNCIL UPON FAILURE TO COMPLY WITH THE ORDER**

(A) Failure to Comply with an Order to Repair, Alter, Improve, or To Vacate and Close.

- (1) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the City Council may adopt an ordinance ordering the Inspector to proceed to effectuate the purpose of these sections with respect to the particular property or properties that the Inspector found to be jeopardizing the health or safety of its occupants or members of the public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner or owners in the grantor index.
- (2) Following the adoption of an ordinance, the Inspector may cause the building or structure to be repaired, altered, or improved or to be vacated and closed, as provided in the ordinance. The Inspector may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a Class 3 misdemeanor.

(B) Failure to Comply with an Order to Remove or Demolish.

- (1) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the City Council may adopt an ordinance ordering the Inspector to proceed to effectuate the purpose of these sections with respect to the particular property or properties that the Inspector found to be jeopardizing the health or safety of its occupants or members of the public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by this Ordinance. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the Randolph and/or Guilford County Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index.
- (2) Following adoption of an ordinance, the Inspector may cause the building or structure to be removed or demolished.

(C) Action by the City Council Upon Abandonment of Intent to Repair. If the City Council has adopted an ordinance or the Inspector has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two (2) years pursuant to the ordinance or order, the City Council may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in

its vacated and closed status would be inimical to the health, safety, and welfare of the municipality in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the City Council may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

- (1) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within ninety (90) days.
- (2) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within ninety (90) days.
- (3) In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, as defined in Section 3 above, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five (5) years before the City Council may act under this subsection. The ordinance shall be recorded in the office of the register of deeds of the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the Inspector shall effectuate the purpose of the ordinance.

Section 5: SERVICE OF COMPLAINTS AND ORDERS

- (A) Complaints or orders issued by the Inspector pursuant to these sections shall be served upon persons either personally or by certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is refused but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.
- (B) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence and the Inspector makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the city at least once no later than the time that personal service would be required under these sections. When service is made by publication, a notice of the pending proceedings shall also be posted in a conspicuous place on the premises affected.

Section 6: **LIENS**

- (A) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the Inspector are a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.
- (B) The amount of the costs of repairs, alterations, or improvements, or vacating or closing, or removal or demolition by the Inspector shall also be a lien on any other real property of the owner located within the City limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.
- (C) If the nonresidential building or structure is removed or demolished by the Inspector, they shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court (of the Superior Court District where said building or structure is located) by the Inspector, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

Section 7: **EJECTMENT**

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the Inspector may file a civil action in the name of the City to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The Clerk of Superior Court (from the Superior Court District where said building or structure is located) shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in NCGS 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the Inspector produces a certified copy of an ordinance adopted by the City Council pursuant to Section 4 to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated, and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under NCGS 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in NCGS 7A-228, and the execution of the judgment may be stayed as provided in NCGS 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least thirty (30) days before the filing of the summary ejectment proceeding, that the City Council has ordered the Inspector to proceed to exercise their duties pursuant to Section 4 to vacate and close or remove and demolish the nonresidential building or structure.

Section 8: CIVIL PENALTIES

The City Council may impose civil penalties against any person or entity that fails to comply with an order entered pursuant to these sections. However, the imposition of civil penalties does not limit the use of any other lawful remedies available to City Council for the enforcement of any ordinances adopted pursuant to these sections.

Section 9: APPEALS

Appeals may be taken from any decision or order of the Inspector to the Board of Adjustment. Any person aggrieved by a decision or order of the Inspector has the remedies provided in NCGS 160D-1208.

Section 10: ABANDONED STRUCTURES

- (A) As authorized by NCGS 160D-1201(b), the City Council may determine that any abandoned structure within the corporate limits of the City or its extraterritorial jurisdiction is a health or safety hazard because of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities.
- (B) If the City Council determines that an abandoned structure is a health or safety hazard, the Council may require the property owner to repair, close, or demolish the structure pursuant to the same provisions and procedures as are prescribed under the Archdale Minimum Housing Ordinance for the repair, closing, or demolition of dwellings found to be unfit for human habitation.
- (C) This authority provided by this section shall be supplemental to and may be used in lieu or of or in conjunction with any other authority provided in this Ordinance.